

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PATRICIA THOMPSON,

Plaintiff,

v.

**REAL ESTATE MORTGAGE
NETWORK, INC., et al.,**

Defendants.

Civ. No. 11-1494 (KM) (MAH)

ORDER

KEVIN MCNULTY, U.S.D.J.:

IT APPEARING that the Court filed an Opinion and Order (DE 235, 236) which, *inter alia*, denied the Defendants' motion to compel arbitration; and

IT FURTHER APPEARING that Defendants have filed an appeal of that ruling to the U.S. Court of Appeals for the Third Circuit (DE 239), which remains pending; and

IT FURTHER APPEARING that Defendants moved before the Hon. Michael A. Hammer, U.S. Magistrate Judge, to stay all proceedings in the district court pending appeal (DE 244); and

IT FURTHER APPEARING that Judge Hammer, in a well-reasoned Letter Opinion and Order ("Op.", DE 251), granted the motion for a stay; and

IT FURTHER APPEARING that Plaintiff has timely objected to and appealed Judge Hammer's stay decision to this Court (DE 254), that Defendants have filed a response (DE 255), and Plaintiff has filed a Reply (DE 256); and

IT FURTHER APPEARING that a District Court will reverse a Magistrate Judge's decision on a non-dispositive motion only if it is "clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a); L. Civ. R. 72.1(c)(1)(A); and

IT FURTHER APPEARING that Judge Hammer soundly reasoned that an appeal of an order enforcing or denying enforcement of an arbitration agreement, pursuant to 9 U.S.C. § 16, because it is a decision as to the forum in which proceedings will take place, serves to deprive the district court of jurisdiction to proceed, unless the appeal is "frivolous or forfeited";¹ and

IT FURTHER APPEARING that Judge Hammer soundly determined that Defendants' arguments, while the Court did not ultimately accept them, are not so "utterly lacking in merit" that the appeal could be termed frivolous;

IT IS, this 15th day of January, 2020,

ORDERED that the objection and appeal (DE 254) is **DENIED** and Judge Hammer's stay order (DE 251) is **AFFIRMED**.


KEVIN MCNULTY
United States District Judge

¹ Op. at 1–2 (citing, e.g., *Ehleiter v. Grapetree Shores Inc.*, 482 F.3d 207, 215 n.6 (3d Cir. 2007); *Kim v. Dongbu Tour & Travel Inc.*, 529 F. App'x. 229 (3d Cir. 2013)).